

**Introduced by Senator McPherson**

February 21, 2003

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An act to amend Section 35160.5 and 49558 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as introduced, McPherson. Education: administration.

(1) Existing law requires, as a condition for the receipt of school apportionments from the state school fund, that the governing board of a school district adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. Existing law requires a school that receives requests for admission in excess of the capacity of the school to use a selection policy that ensures that selection of pupils to enroll in the school is made through a random, unbiased process, with certain exceptions.

This bill would require the policy to provide a priority for admission to the lowest performing children from low-income families who attend a school identified for school improvement pursuant to specified federal laws. By placing additional duties on the governing board of a school district, this bill would impose a state-mandated local program.

(2) Existing law requires that all applications and records kept by a public officer or agency in connection with the administration of free or reduced-price meal programs be kept confidential, with certain exceptions.

This bill would permit a public officer or agency to authorize the use of those records for the purpose of determining the eligibility of a pupil to participate in a state or federal education program based on family wealth or income.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35160.5 of the Education Code is  
2 amended to read:

3 35160.5. (a) The governing board of each school district that  
4 maintains one or more schools containing any of grades 7 to 12,  
5 inclusive, shall, as a condition for the receipt of an inflation  
6 adjustment pursuant to Section 42238.1, establish a school district  
7 policy regarding participation in extracurricular and cocurricular  
8 activities by pupils in grades 7 to 12, inclusive. The criteria, which  
9 shall be applied to extracurricular and cocurricular activities, shall  
10 ensure that pupil participation is conditioned upon satisfactory  
11 educational progress in the previous grading period. ~~Pupils who~~  
12 ~~are eligible for differential standards of proficiency pursuant to~~  
13 ~~subdivision (d) of Section 51215 are covered by this section~~  
14 ~~consistent with that subdivision. No person shall classify a pupil~~  
15 ~~as eligible for differential standards of proficiency pursuant to~~  
16 ~~subdivision (d) of Section 51215 for the purpose of circumventing~~  
17 ~~the intent of this subdivision.~~

18 (1) For purposes of this subdivision, “extracurricular activity”  
19 means a program that has all of the following characteristics:

20 (A) The program is supervised or financed by the school  
21 district.

22 (B) Pupils participating in the program represent the school  
23 district.



1 (C) Pupils exercise some degree of freedom in either the  
2 selection, planning, or control of the program.

3 (D) The program includes both preparation for performance  
4 and performance before an audience or spectators.

5 (2) For purposes of this subdivision, an “extracurricular  
6 activity” is not part of the regular school curriculum, is not graded,  
7 does not offer credit, and does not take place during classroom  
8 time.

9 (3) For purposes of this subdivision, a “cocurricular activity”  
10 is defined as a program that may be associated with the curriculum  
11 in a regular classroom.

12 (4) Any teacher graded or required program or activity for a  
13 course that satisfies the entrance requirements for admission to the  
14 California State University or the University of California is not  
15 an extracurricular or cocurricular activity as defined by this  
16 section.

17 (5) For purposes of this subdivision, “satisfactory educational  
18 progress” shall include, but not be limited to, the following:

19 (A) Maintenance of minimum passing grades, which is defined  
20 as at least a 2.0 grade point average in all enrolled courses on a 4.0  
21 scale.

22 (B) Maintenance of minimum progress toward meeting the  
23 high school graduation requirements prescribed by the governing  
24 board.

25 (6) For purposes of this subdivision, “previous grading  
26 period” does not include any grading period in which the pupil  
27 was not in attendance for all, or a majority of, the grading period  
28 due to absences excused by the school for reasons ~~such as~~  
29 *including, but not limited to*, serious illness or injury, approved  
30 travel, or work. In that event, “previous grading period” is  
31 deemed to mean the grading period immediately prior to the  
32 grading period or periods excluded pursuant to this paragraph.

33 (7) A program that has, as its primary goal, the improvement  
34 of academic or educational achievements of pupils is not an  
35 extracurricular or cocurricular activity as defined by this section.

36 (8) The governing board of each school district may adopt, as  
37 part of its policy established pursuant to this subdivision,  
38 provisions that would allow a pupil who does not achieve  
39 satisfactory educational progress, as defined in paragraph (4), in  
40 the previous grading period to remain eligible to participate in

extracurricular and cocurricular activities during a probationary period. The probationary period ~~shall~~ *may* not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), during the probationary period ~~shall~~ *may* not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) ~~Nothing in this~~ *This* subdivision ~~shall~~ *does not* preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

The governing board of each school district shall annually review the school district policies adopted pursuant to the requirements of this section.

(b) (1) On or before July 1, 1994, the governing board of each school district shall, as a condition for the receipt of school apportionments from the ~~state school fund~~ *State School Fund*, adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to ~~any~~ *a* school district that has only one school or ~~any~~ *a* school district with schools that do not serve any of the same grade levels.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parent or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular ~~location~~ *location* of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for ~~any~~ *a* school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether ~~any~~ *a* pupil should be enrolled based upon

1 his or her academic or athletic performance. For purposes of this  
2 subdivision, the governing board of the school district shall  
3 determine the capacity of the schools in its district. However,  
4 school districts may employ existing entrance criteria for  
5 specialized schools or programs if the criteria are uniformly  
6 applied to all applicants. This subdivision ~~shall~~ *does not be*  
7 ~~construed to~~ prohibit school districts from using academic  
8 performance to determine eligibility for, or placement in,  
9 programs for gifted and talented pupils established pursuant to  
10 Chapter 8 (commencing with Section 52200) of Part 28.

11 (C) It shall provide that no pupil who currently resides in the  
12 attendance area of a school shall be displaced by pupils  
13 transferring from outside the attendance area.

14 (3) Notwithstanding the requirement of subparagraph (B) of  
15 paragraph (2) that the policy include a selection policy for ~~any~~ *a*  
16 school that receives requests for admission in excess of the  
17 capacity of the school that ensures that the selection is made  
18 through a random, unbiased process, the policy may include any  
19 of the following elements:

20 (A) It may provide that special circumstances exist that might  
21 be harmful or dangerous to a particular pupil in the current  
22 attendance area of the pupil, including, but not limited to, threats  
23 of bodily harm or threats to the emotional stability of the pupil, that  
24 serve as a basis for granting a priority of attendance outside the  
25 current attendance area of the pupil. A finding of harmful or  
26 dangerous special circumstances shall be based upon either of the  
27 following:

28 (i) A written statement from a representative of the appropriate  
29 state or local agency, including, but not limited to, a law  
30 enforcement official or a social worker, or properly licensed or  
31 registered professionals, including, but not limited to,  
32 psychiatrists, psychologists, or marriage and family therapists.

33 (ii) A court order, including a temporary restraining order and  
34 injunction, issued by a judge.

35 A finding of harmful or dangerous special circumstances  
36 pursuant to this subparagraph may be used by a school district to  
37 approve transfers within the district to schools that have been  
38 deemed by the school district to be at capacity and otherwise  
39 closed to transfers that are not based on harmful or dangerous  
40 special circumstances.

(B) It may provide that ~~any~~ a pupil attending a school prior to July 1, 1994, may be considered a current resident of that school for purposes of this section until the pupil is promoted or graduates from that school.

(C) It may provide that no pupil who was on a waiting list for a school or specialized program, on or before July 1, 1994, pursuant to a then-existing district policy on transfers within the district, shall be displaced by pupils transferring after July 1, 1994, from outside the attendance area, as long as the continued maintenance on a waiting list remains consistent with the former policy.

(D) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of pupils already in attendance in that school and to pupils whose parent or legal guardian is assigned to that school as his or her primary place of employment.

(E) It may include a process by which the school district informs parents or guardians that certain schools or grade levels within a school are currently, or are likely to be, at capacity and, therefore, those schools or grade levels are unable to accommodate any new pupils under the open enrollment policy.

*(4) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that a school that receives requests for admission in excess of the capacity of the school to use a selection policy that ensures that the selection is made through a random, unbiased process, priority shall be given to the lowest achieving children from low-income families, attending a school identified for school improvement pursuant to subsection (b) of Section 6316 of Title 20 of the United States Code.*

(5) It is the intent of the Legislature that, upon the request of the pupil's parent or guardian and demonstration of financial need, each school district provide transportation assistance to the pupil to the extent that the district otherwise provides transportation assistance to pupils.

SEC. 2. Section 49558 of the Education Code is amended to read:

49558. (a) All applications and records concerning any individual made or kept by ~~any~~ a public officer or agency in connection with the administration of any provision of this code relating to free or reduced-price meal eligibility ~~shall be~~ is

1 confidential, and ~~shall~~ *may* not be open to examination for any  
2 purpose not directly connected with the administration of ~~any a~~  
3 free or reduced-price meal program, or any investigation,  
4 prosecution, or criminal or civil proceeding conducted in  
5 connection with the administration of ~~any a~~ free or reduced-price  
6 meal program.

7 (b) Notwithstanding subdivision (a), a public officer or agency  
8 ~~may allow~~ *permit* the use by school district employees, who are  
9 authorized by the governing board of the school district, of  
10 individual records pertaining to pupil participation in ~~any a~~ free or  
11 reduced-price meal program solely for the purpose of  
12 disaggregation of academic achievement data if the public agency  
13 ensures the following:

14 (1) The public agency has adopted a policy that allows for the  
15 use of individual records for these purposes.

16 (2) No individual indicators of participation in ~~any a~~ free or  
17 reduced-price meal program are maintained in the permanent  
18 record of ~~any a~~ pupil if not otherwise allowed by law.

19 (3) No public release of information regarding individual pupil  
20 participation in ~~any a~~ free or reduced-price meal program is  
21 permitted.

22 (4) All other confidentiality provisions required by law are  
23 met.

24 (c) Notwithstanding subdivision (a), the school districts and  
25 county superintendents of schools may release information on the  
26 School Lunch Program application only to the local agency that  
27 determines eligibility under the Medi-Cal program, if the child is  
28 approved for free meals and if the applicant consents to the sharing  
29 of information pursuant to Section 49557.2.

30 (d) *Notwithstanding subdivision (a), a public officer or agency*  
31 *may permit the use of individual records pertaining to pupil*  
32 *participation in a free or reduced price meal program for the*  
33 *purpose of identifying individual pupils who are eligible to*  
34 *participate in a state or federal education program that is based*  
35 *on family wealth or income.*

36 SEC. 3. Notwithstanding Section 17610 of the Government  
37 Code, if the Commission on State Mandates determines that this  
38 act contains costs mandated by the state, reimbursement to local  
39 agencies and school districts for those costs shall be made pursuant  
40 to Part 7 (commencing with Section 17500) of Division 4 of Title

1 2 of the Government Code. If the statewide cost of the claim for  
2 reimbursement does not exceed one million dollars (\$1,000,000),  
3 reimbursement shall be made from the State Mandates Claims  
4 Fund.

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